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LOWER CANADA.

RETURN to an ADDRESS of the Honourable The House of Commons,
dated 6 April 1840;—for,

COPY of a DESPATCH from the Right Honourable *Charles Poulett Thomson* to Lord *John Russell*, dated Montreal, the 13th day of March 1840, transmitting MEMORIALS from various Parties respecting the ESTATES of *St. Sulpice*.

Ordered, by The House of Commons, to be Printed, 10 April 1840.

(No. 68.)

COPY of a DESPATCH from the Right Hon. *C. Poulett Thomson* to Lord *John Russell*.

Government-House, Montreal,
13 March 1840.

My Lord,

ON my return to Montreal, I found that considerable excitement had been raised among the inhabitants on the subject of the extinction of seignorial rights and dues within this city and island, as provided for in the Ordinance passed by Sir John Colborne and the Special Council last year; the re-enactment of which, under the more extended powers of the Council, I had announced my intention to effect. The daily press had been almost exclusively employed in discussing this question, and various publications respecting it had made their appearance in other forms. At last a meeting was convened by the party opposed to the Ordinance, at which the accompanying Address to Her Majesty was adopted. This Address is signed by 2,200 persons, of whom I was informed, by the gentleman who presented it, that 1,500 were censitaires. From subsequent inquiries, however, I learn that this statement is erroneous, and that in reality not above 300 or 400 of the censitaires have affixed their names to it.

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In the meantime, the opposite party were of course not idle, and I this day received the two Addresses, of which copies are enclosed, signed by 6,700 persons, among whom it is stated that a large majority of the censitaires of Montreal are numbered. These Addresses express approval of the terms offered by the Seminary and accepted by the Government, and pray that the Ordinance of last year may be passed into law.

It is not my intention in this despatch to re-open the long-disputed question as to the right of the Seminary to the seigniori of Montreal. That question has, I think, been exhausted by the Report of the Commissioners of Inquiry of the 24th October 1836, who have shown in a conclusive manner that, although the legal right of the Seminary may not be perfect, their equitable claim admits of no dispute. This claim has since been recognized, both by the local and metropolitan government, and by the Imperial Parliament; by the former in the enactment and approval of the Ordinance of last year, and by the latter in the introduction into the statute 2 & 3 Vict. c. 53, of a clause specially permitting the re-enactment of the same Ordinance. Under these circumstances, and adverting to the opinion of the law officers of the Crown and your Lordship's instructions on this subject, I should not consider myself at liberty, even were I disposed, to refrain from proposing to the Special Council an Ordinance for concluding the agreement entered into between the Seminary and the local government. But I am strongly impressed with the necessity of bringing this matter to a speedy close, in order to put a stop to dissensions which must irritate and inflame the public mind. Hitherto the Province has been free from religious dissensions, but I have ob-

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served with regret, during the late discussions, a spirit of intolerance which cannot fail, if continued, to have the worst effects. It is therefore my intention, at their next meeting, again to submit to the Special Council an Ordinance for extinguishing the seignorial dues in Montreal. There are, however, several modifications which, in my opinion, are necessary, in order to bring the terms more in accordance with the conditions recommended by Mr. Buller in his report, and these I shall feel it my duty to introduce. They will not obviate some of the objections entertained by the memorialists who have addressed Her Majesty against the Ordinance, but others will be removed by them. I shall explain those modifications more fully in transmitting to your Lordship the Ordinance itself.

I have, &c.
(signed) *C. Poulett Thomson.*

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign,

THE undersigned, proprietors of real estate, merchants, and others, inhabitants of the city and island of Montreal, in the Province of Lower Canada, most humbly approach Your Majesty, on the subject of an Ordinance lately submitted by his Excellency the Right Honourable Charles Poulett Thomson, for the reconsideration of the Special Council appointed for the affairs of this Province, intituled, "An Ordinance to incorporate the Ecclesiastics of the Seminary of St. Sulpice, of Montreal, to confirm their Title to the Fief and Seignior of the Island of Montreal, the Fief and Seignior of the Lake of the Two Mountains, and the Fief and Seignior of St. Sulpice, in this Province, to provide for the gradual extinction of Seignorial Rights and Dues within the Seignorial Limits of the said Fiefs and Seignories, and for other Purposes," the provisions of which involve the right of private property, the welfare of this Province, and the general interests of the Canadas.

Your petitioners represent that the evils and inconveniences of the feudal tenure have been so generally acknowledged, that it will not be necessary to occupy the attention of Your Majesty with a detail of the various oppressions and exactions incident to its existence in Lower Canada, in all parts of which it has retarded the extension of its commerce, and the development of its natural resources. The heavy fines on alienations, which impede the transmission of land, and impose a burthen-some tax upon every improvement; the feudal privilege on every purchase of real estate, which renders its possession insecure, and prevents investment of capital therein; and the seignorial monopoly in the manufacture of the products of the soil, which checks improvement in cultivation, and cramps enterprise in commerce, are not only injurious to the use of land for agriculture, but are infinitely more destructive to its application for building purposes.

Your petitioners submit, that, however objectionable the continued existence of the feudal tenure may be throughout the Province, its pernicious influence is felt with augmented force in the island of Montreal, which includes the city of Montreal, together with the ground on which it must in progress of time extend itself, and is the admitted cause of the slow progress, both in extent and prosperity, of a city, which, from its local position, and the increasing resources of the Canadas, possesses every capability of being one of the greatest marts of trade, and most extensive seats of population in Your Majesty's North American dominions.

Although repeated and respectful remonstrances have been made at various periods against the continuance of the feudal tenure, which has been unwisely permitted to exist in full force in this Province alone of all the wide dominions of the British empire, your petitioners rejoice that it has been reserved to Your Majesty to be enabled to sanction the abolition of its pernicious influence in this island, and to provide for its entire extinction.

Your petitioners have no desire to impede the legislative powers of the Special Council appointed for the making of Laws and Ordinances for the government of the Province, but they entertain a firm conviction, that, from the peculiar constitution of the Council, and the want of an effective system of representation therein, public interests

interests and private rights cannot at all times receive the adequate consideration that their importance and urgency demand; and that from these inherent legislative defects the proposed Ordinance, altogether objectionable in principle and in detail, formerly received the sanction of that legislative body, and would have been now in force, had not the temporary character of the Ordinance necessitated its reconsideration, for the purpose of being endued with the power of permanent law.

Your petitioners are therefore reluctantly compelled to appeal to Your Majesty for protection and relief against the provisions of the contemplated Ordinance, which not only perpetuates and aggravates the feudal tenure so loudly and so justly complained of, but at the same time superadds evils of a more general character and of far greater importance.

Your petitioners complain that, contrary to public policy, contrary to the just dependence of all religious orders and communities in the Province upon the will and pleasure of the Sovereign, in as far as the laws of Great Britain permit, and contrary to the express exception contained in the Imperial statute, 2 Vict. c. 58, which enacts, "That it should not be lawful for the Governor-general, with the advice and consent of the special council, to make any law or ordinance altering or affecting the temporal or spiritual rights of the clergy of any religious communion in the Province," the Ordinance provides for the erection of the ecclesiastics of St. Sulpice, at Montreal, into an ecclesiastical corporation, with all the undefined rights and privileges which any ecclesiastical corporation might or could at any period exercise or possess, and which it is humbly conceived that no authority less than that of the Imperial Parliament can institute in this Province.

They complain that, although by the mere effect of the conquest of the Province, confirmed by the cession contained in the subsequent treaty of peace, the fiefs and seigniories before enumerated became the property of the Crown, and in its power to dispose of either for public purposes, or in such manner as might be thereafter directed, the Ordinance provides for the divestment of those estates from the Crown, and for their investment, contrary to law, in the ecclesiastical corporation intended to be erected under its provisions, and thereby absolutely prevents their application to purposes of public utility, as well as unconditionally abrogates any disposition thereof which may have been made by the Royal pleasure.

They complain that, contrary to the Royal assurance contained in the proclamation of his late Majesty King George the Third, and bearing date in the year 1763, which declared the Royal intention to settle and agree with the inhabitants of the colony, and with all who should become inhabitants thereof, for grants of such lands, tenements and hereditaments, as were then or thereafter should be in the power of His Majesty to dispose of, upon the moderate quit-rents and acknowledgments of the other colonies, without any reference to feudal tenure as a condition of the grant, whereby the fiefs and seigniories above enumerated in right and justice became freed and exempt from the operation of feudal tenure; and although the Royal promise continues unrevoked, and should receive the large and favourable construction affixed to every assurance of Royal grace and favour, the Ordinance not only established seignorial rights and dues in those fiefs and seigniories, but perpetuates their existence by providing for their gradual and voluntary commutation only, in derogation of the express enactment of the Imperial Parliament for their general and immediate extinction.

They complain that, although at the conquest of Quebec by the British arms, the said fiefs and seigniories were the acknowledged property of the community of ecclesiastics of the seminary of St. Sulpice at Paris, and that the missionaries and members of the order resident at Montreal did not possess any exclusive title to the property of those estates, and acted merely in the capacity of agents in the collection of their revenues for the benefit of the community at Paris, and that although the ecclesiastics at Paris neither at the conquest, nor at any subsequent period, did or could convey any title in those estates to the individual members of the order resident at Montreal, who were a dependent section of that community, and possessed of no independent corporate capacity to receive such conveyance, the Ordinance confirms to the ecclesiastics at Montreal a title to those fiefs and seigniories, which they never possessed, and to which they can establish no claim, and endows them with powers and privileges as feudal seigniors

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indefinite in their extent, and embracing in the generality of the concession the worst vassalage of the most feudal times.

They complain that, although the ecclesiastics at Montreal are dependent for their existence in this Province upon the Royal will and pleasure, restricted within the limitation, "in as far as the laws of Great Britain permit," and were, and still continue subject to the same Royal authority which suppressed the communities of Jesuits and Recollets and assumed the possession of their estates for public purposes, the Ordinance altogether liberates the ecclesiastics at Montreal from such Royal supervision, and renders them independent of Imperial legislation, contrary to the limited legislative powers of the Governor and Special Council in this respect, and in violation of the laws of Great Britain.

They complain that, although the ecclesiastics at Montreal have unjustly received from alienations of real estate in this island an amount exceeding 300,000*l.*, equal to 20 times the value of the entire island at the proclamation of the Royal promise, an increase in value mainly to be attributed to British industry and enterprise, the Ordinance proposes to invest them with additional wealth, to be drawn chiefly from the same sources of improvement, in extreme disproportion to the general wealth of the Province, and infinitely greater than their previous demands or expectations, and moreover enables them to purchase and take in mortmain any real property, and to an unlimited amount, without any restriction by the Royal authority, or any permission required for such acquisitions; whereby municipal as well as general improvement will be greatly retarded, and an influence both civil and ecclesiastical conferred upon the ecclesiastics, which cannot fail of being exceedingly dangerous to the future tranquillity and welfare of the Provinces.

They complain that, although by the Imperial statute 14 Geo. 3, c. 83, making more effectual provision for the civil government of Quebec, the Canadian subjects were secured in the enjoyment of their properties and possessions, with the express exception of the religious orders and communities, and the inhabitants professing the religion of the Church of Rome were fully and freely tolerated in the exercise of their religious faith, subject to the supremacy of the Crown, and that although the clergy of the said church were restricted to claim and receive their accustomed dues and rights from such persons only as should profess that religion, the provisions of the Ordinance subject all other inhabitants of this city and island, professing a belief different from that of the Church of Rome, to support and maintain the ecclesiastics and institutions of that church by the payment to the proposed ecclesiastical corporation of a large amount for the commutation of seignorial tenure, in violation of the pledge of the national faith and honour contained in the Imperial statute, and in violation of the express exception contained in the recent Imperial statute above adverted to.

Whatever be the gracious dispositions of Your Majesty with respect to the ecclesiastics of the seminary of St. Sulpice at Montreal, your petitioners humbly conceive that the Royal munificence in favour of the ecclesiastics should not be effected at the expense of British and Irish commercial enterprise, practical agricultural improvement, and active, untiring industry; and that your petitioners should not, either in justice or in equity, be required to provide a compensation to the ecclesiastics for their willingness to settle this important question, however desirable it may be definitely to adopt and carry that settlement into effect, or for their readiness to agree to a commutation of the feudal rights in this island, to which they enjoy no legal title, and over which they possess no legal control.

Your petitioners are sensible that, by the mere sufferance of the Crown, the ecclesiastics of Montreal have collected and received for many years the seignorial revenues arising from the island of Montreal; but your petitioners humbly conceive that mere sufferance of possession for any length of time cannot confer upon the ecclesiastics a title in derogation of the rights of the Crown, and that they cannot complain if that sufferance should be now withdrawn, inasmuch as they would not thereby be deprived of property previously secured to them, which they had continued to enjoy in good faith and in ignorance of their absolute want of title to possess the same.

Your petitioners submit that the ecclesiastics at Montreal have not at any time been in ignorance of the justice of their pretensions, but upon various occasions have not only acknowledged the absence of any title, but likewise the precarious nature of their enjoyment, to the revenues of the seigniorie. By the articles of capitulation of Montreal, in the year 1760, in which no express claim or reservation

tion of title was made on their behalf; by the treaty of peace in 1763, and the cession therein contained, in which no reference is made to the properties and possessions in the Province claimed by religious orders and communities; by the terms of the deed of gift executed at Paris in the year 1764, between the community at Paris and the missionaries of the order resident at Montreal, in which their want of title is admitted by themselves; by the provisions of the Imperial statute passed in the year 1774, in which the religious orders and communities are expressly excepted from the enjoyment of property and possessions; by their proposed abandonment to the Crown in 1826 of their pretensions to the property of the island in consideration of an annual allowance, and by their express admission in the preamble of the Ordinance itself, their want of title is not only established, but distinctly admitted; while it is evident that the reiterated Royal instructions to the successive governors of the Province, in regard to the sufferance enjoyed by the said ecclesiastics, and especially the instructions to His Excellency Lord Aylmer in 1834 to assume the possession of the island of Montreal, the investigations of the Government with respect to the title of the ecclesiastics, and the opinions at different periods of the law advisers of the Crown, both in England and in the colony, and of the late Royal Commissioners, all adverse to the pretensions of the ecclesiastics, the repeated complaints of the British inhabitants, and their unavailing attempts to obtain a decision in the courts of law in this Province, all of which the ecclesiastics at Montreal were perfectly cognizant, all concur in establishing their knowledge, as well of their want of title as of the mere sufferance of their enjoyment of the revenues derived from the island, subject to interruption at any time, upon the pleasure of the Crown or by the decision of a competent legal tribunal; a knowledge on their part which is amply confirmed by the policy which they have constantly adopted of accepting a modified composition from those who possessed the means of contesting their title, while they exacted at sheriffs' sales the full amount of seignorial dues, from the proceeds of the property of those, who, from circumstances of calamity or misfortune, were deprived of the means of contesting their pretensions.

For these reasons, as well as from motives of public policy, from a due appreciation of the rights secured to them by the Royal assurance and the enactments of the Imperial Parliament, and from a sincere wish to promote the prosperity of the Provinces, the extension of their commerce and their general peace and tranquillity, your petitioners most humbly beseech Your Majesty to refuse your sanction to any law or ordinance providing for the incorporation of the ecclesiastics of the seminary at Montreal, for confirmation of their pretension to the seigniory of the island of Montreal, or for a continuance of the feudal tenure therein, and to direct its immediate exemption from the operation of that tenure, and thereby relieve your petitioners and the inhabitants of the island from the degrading vassalage to which they have been heretofore and still continue to be subjected; and that, if contrary to good policy, contrary to the Royal assurance and the remonstrances of the British inhabitants, the exemption from feudal tenure shall be required to be purchased at the expense of the inhabitants of the island of Montreal, your petitioners most humbly pray that the proceeds thereof may be applied to those public purposes from which all classes of the population may derive equal and commensurate advantage.

And your petitioners, as in duty and affection bound, will ever pray.

[2,119 Signatures.]

Montreal, February 1840.

To His Excellency the Right Hon. *C. Poulett Thomson*, one of Her Majesty's Most Honourable Privy Council, Governor-general of British North America, &c. &c. &c.

May it please your Excellency,

WE, members of a deputation acting for and in behalf of the signers of the accompanying petition to your Excellency, praying for the immediate completion of the arrangement providing for the gradual commutation and final extinction of the feudal tenure, in the seigniories of Montreal, Saint Sulpice, and Lake of Two Mountains, now pending between the Government of Her Majesty and the Reverend Ecclesiastics of the seminary of Saint Sulpice of Montreal, beg leave to con-

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gratulate your Excellency on your Excellency's return to this Province, and to express our ardent hopes that the efforts of your Excellency to promote the welfare and prosperity of Her Majesty's Canadian subjects may be crowned with the fullest success.

It is our duty to represent to your Excellency that the extinction of the feudal tenure has long been earnestly desired by the industrious and intelligent population of the Province, and that, more especially with reference to the city and island of Montreal, a commutation, based upon equitable and liberal terms, will meet with the approbation as well of the censitaires, as of that large body of persons who are deterred by the continuance of an oppressive and obstructive system from the investment of capital in real estate, and from prosecuting those improvements which indicate an advance in civilization and in the arts of life.

We have great satisfaction in being able to state to your Excellency that the signers to the accompanying petition regard the conditions of the Ordinance passed by the Special Council of his Excellency Sir John Colborne, late Governor-in-chief, and again submitted by your Excellency in November last to your Excellency's Special Council, as most equitable and highly liberal. We are instructed to express to your Excellency the deep sense entertained by the petitioners of the honour and wisdom of the British Government in exerting itself to effect an amicable and satisfactory adjustment of a question in which the feelings and interests of the petitioners are so largely involved.

The petition we lay before your Excellency is signed by 6,370 persons, representing the great mass of the censitaires and inhabitants of the three seigniories. Although it has not been deemed necessary to distinguish proprietors of lots and houses from other signers, we beg leave to inform your Excellency, that of 2,000 censitaires, being the entire number in and about the city of Montreal, a large majority have affixed their names to the petition, and that the signers from the country parishes, where the petition was submitted to the people at public meetings convoked according to custom at the church doors, and where in no instance was manifested any difference of opinion, are almost exclusively censitaires and heads of families, representing in each case the sentiments of the parish to which they belong.

We rejoice in having it in our power to state further to your Excellency, that although a majority of the signers are Roman-catholics of French origin, the petition has also been signed by a large number of English, Irish, and Scotch, of various religious persuasions; we are confident that your Excellency will perceive with pleasure, that differences of religion and origin have not altogether banished from our soil a sense of justice and spirit of liberality, and that while we seek by all legal and constitutional means to forward our individual and collective interests, we are not insensible to the sacred nature of established and possessory rights.

[Signed by the Chairman, Secretary, and 43 others.]

Montreal, 13 March 1840.

To his Excellency the Right Hon. *C. Poulett Thomson*, Governor-general of British North America, Captain-general and Governor-in-chief in and over the Provinces of Lower and Upper Canada, &c. &c. &c.

THE Petition of the undersigned proprietors of lands, houses, and lots, in the city and in the seignior of the Island of Montreal, in the seigniories of St. Sulpice, and the Lake of the Two Mountains, and other citizens and residents thereof, most respectfully represents;

That it is the anxious desire of your petitioners that the projected arrangement between the Government of Her Majesty and the Reverend Ecclesiastics of the seminary of St. Sulpice of Montreal, for the gradual commutation and final extinction of the feudal tenure on the said seigniories, may be brought to immediate completion; and that it is the opinion of your petitioners that the arrangement is liberal on the part of the seigniors, and advantageous to the censitaires.

Wherefore,

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Wherefore, your petitioners' most respectfully pray, that your Excellency may be pleased to exercise the high powers confided to your Excellency by the Imperial Parliament, to the end that the said arrangement may become completed by your Excellency's sanction.

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And your petitioners will ever pray, &c. &c. &c.

[6,370 Signatures.]

Montreal, 3 February 1840.

Colonial Office, Downing-street, }
9 April 1840.

R. VERNON SMITH.

LOWER CANADA.

Copy of a DESPATCH from the Right Hon.
Charles Poulett Thomson to Lord *John Russell*,
dated Montreal, the 13th day of May 1840,
transmitting MEMORIAL from various Parties
respecting the Estates of *St. Sulpice*.

(*Lord John Russell.*)

Ordered, by The House of Commons, to be Printed,
10 April 1840.
